

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:07-cr-97-RJC**

**UNITED STATES OF AMERICA**

**v.**

**THOMAS DONNELL SIFFORD**

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**ORDER**

**THIS MATTER** is before the Court again as the defendant renews his attack on the length of his sentence, which he has already served, this time seeking a Writ of Coram Nobis. (Doc. No. 77).

The defendant previously obtained relief from his conviction under 18 U.S.C. § 922(g)(1) based on United States v. Simmons, 649 F.3d 237, 241-45 (4th Cir. 2011) (en banc). (Case No. 3:13-cv-541, Doc. No. 7: Order at 6). However, his challenges to the length of his drug trafficking sentence pursuant to 28 U.S.C. §§ 2241 and 2255 have been denied. (Id. at 5; 3:10-cv-596, Doc. No. 4: Order; Case No. 3:14-cv-1, Doc. No. 3: Order; Case No. 3:14-cv-705, Doc. No. 7: Order).

Relief under a theory of coram nobis was traditionally available only to raise factual errors affecting the validity and regularity of the underlying proceeding itself, such as a defendant's being under age or deceased. Carlisle v. United States, 517 U.S. 416, 429 (1996). Although the All Writs Act provides residual authority for courts to issue writs not otherwise addressed by statute, such authority ends where a statute controls. Id. Thus, the Fourth Circuit

found that the writ was properly granted “in light of a retroactive dispositive change in the law of mail fraud” where petitioners had already served their sentences and had no other remedy available. United States v. Mandel, 862 F.2d 1067, 1075 (4th Cir. 1988) (vacating convictions in wake of McNally v. United States, 483 U.S. 350 (1987)). Here, the defendant has had the opportunity to seek a remedy under § 2255. Therefore, he is not entitled to relief under a theory of coram nobis.

**IT IS, THEREFORE, ORDERED** that the defendant’s Motion for Coram Nobis, (Doc. No. 77), is **DENIED**.

Signed: February 28, 2017

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
United States District Judge

